IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

WP(C).No. 6273 of 2007(V)

PETITIONER:
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1. V.VIJAYAN, AGED 62 YEARS,
S/O.KESAVA MENON, KATTITHARA MADHOM,
MARADU P.O., ERNAKULAM.

2. V.NANDAKUMARAN, AGED 49 YEARS,
S/O.PADMANABHA MENON, VELUTHEDATHU PARAMBIL,
MARADU P.O., ERNAKULAM.

3. P.NANDAKUMAR, AGED 35 YEARS,
S/O.V.K.PADMANABHA MENON, VELUTHEDATHU PARAMBIL
MARADU P.O., ERNAKULAM.

4. KRISHNAN NAIR, AGED 64 YEARS,
S/O.MADHAVAN NAIR. AMBILI NIVAS,
MARADU P.O., ERNAKULAM.

BY ADV. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.JAGAN GEORGE
SMT.P.A.ANEESHA

RESPONDENTS:

MARADU GRAMA PANCHAYATH, MARADU,
ERNAKULAM REPRESENTED BY ITS SECRETARY.

ADDL. R2: TAHSILDAR, KANAYANNUR TALUK.
(ADDL. R2 IMPLEADED SUO MOTU AS PER ORDER DT.23.2.2007)

ADDL.R2 BY ADDL.ADVOCATE GENERAL
GOVERNMENT PLEADER
R1 BY S.C. SHRI SHANAVAS KHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/03/2007, ALONG WITH WPC NO. 6396 OF 2007, ETC. THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & T.R. Ramachandran Nair, JJ.

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W.P.(C).NOS.6273, 6302, 6396, 6398
6439 & 6699 OF 2007

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Dated this the 5th day of March, 2007

JUDGMENT

Koshy, J.

These petitions are filed by various petitioners alleging that Maradu Grama Panchayat, without giving any opportunity to the petitioners, in the guise of executing Ext.P2 judgment in Writ Petition NO.6396/2007, is taking action to dispossess them alleging that they are occupying thodu puramboke. It is true that a Division Bench of this court in O.P.No.14426/2002 and connected cases, directed eviction of encroachers of puramboke land on the banks of the canal which resulted in water logging. It is the case of the petitioners that they were not parties to the said original petition. They are not occupying puramboke land and the land which they are occupying are not only in their possession but also they are having valid title. The main contention raised by the petitioners is that the petitioners were not parties in Ext.P2 and they were aware of the proceedings only when authorities came with police aid to evict them. They were totally at dark.

2. Question to be decided is whether petitioners have encroached

thodu or canal puramboke land or not. If they had encroached the puramboke land, they are liable to be evicted. In all writ petitions, apart from the ground of violation of principles of natural justice, it is also pleaded that before evicting them, property shall be measured after considering the title deeds produced by them.

In the above circumstances, we direct the respondents to measure out the property with notice to the petitioners before action is taken to evict them. Documents of title can be produced by the petitioners before the authorities at that time. Water logging can be avoided if such persons are evicted from the puramboke land according to law. But orders passed and notices issued without measurement and in violation of principles of natural justice, are set aside.

The writ petitions are disposed of in the above terms.

(J.B. Koshy, Judge.)

(T.R. Ramachandran Nair, Judge.)

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